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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/603,832

06/26/2003

Tokimori Tomita

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EXAMINER

ALVAREZ, RAQUEL

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

06/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/603,832

**Applicant(s)**

TOMITA ET AL.

**Examiner**

Raquel Alvarez

**Art Unit**

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 12,14,15,17,18,20,21,23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12,14,15,17,18,20,21,23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to communication filed on 3/30/2007.
2. Claims 12, 14-15, 17-18, 20-21, 23 and 25 are presented for examination.

#### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12, 14-15, 17-18, 20-21, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deaton (6,684,195 hereinafter Deaton) in view of Official Notice.

With respect to claims 12-13, 15-16, 18-19, 21-22 and 24-25, Deaton teaches a point management system employing a computer for managing points issued to each customer who receives a service according to the issued points (Abstract). Point issue means for issuing points to a customer according to transaction performed by the customer (see Figure 18B and col. 75, lines 33-38); point accumulation means for calculating and accumulating the issued points, in proportion to a time used for providing an information service according to the cumulative points (i.e. the incentives or points accumulated are based on the purchases made within a selected time period or whether the store has the product in inventory, the incentive may be changed)(Figure 18C, items 38,39,42,43, 46, col. 73, lines 45-57, col. 75, lines 33-38 and col. 103, lines

50 to col. 104, lines 1-21 ); service providing means for providing the information to a customer (col. 103, lines 64 to col. 104, lines 1-21).

Deaton doesn't specifically teach that the service or item are electronically provided via a customer terminal. Official notice is taken that it is old and well known in the computer related arts to provide services electronically such as video information, voice information, software, music and database information to the customer via the customer's PC in order to provide convenience to the customer. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included providing services/items electronically such as video information, voice information, software, music and database information via his or her PC in order to obtain the above mentioned advantage.

With respect to newly amended feature of calculating and accumulating the issued points and subtracts from the cumulative points in proportion to the time used for providing an electronic information service. Deaton teaches on col. 103, lines 50-63 reducing the value of the incentives or points accumulated over a pre-selected time interval if the customer doesn't receive or respond to the promotion or service within the time allotted.

Claims 14, 17, 20 and 23, further recite displaying the customer's cumulative points. Since Deaton teaches on col. 73, lines 55-57 adding or subtracting the incentives/points according to a proportion of time (col. 75, lines 33-38, col. 103, lines 50 to col. 104, lines 1-21) then it would have been obvious to a person of ordinary skill

in the art at the time of Applicant's invention to have included displaying the points in order to provide the customer with a visual representation of the points.

### **Response to Arguments**

5. Applicant argues that Deaton doesn't teach subtracting from the accumulative points in proportion to the time used for providing the service. The Examiner disagrees with Applicant because Deaton teaches on col. 103, lines 50-63, reducing the value of accumulated incentives if the customer doesn't satisfy the criteria or buys the items or services within the pre-selected time period.
6. With respect to the Official Notice taken that the examples given by the Examiner are not common knowledge or well known in the art is not relevant to the use of Official Notice. While applicant may challenge the examiner's use of Official Notice, applicant needs to provide a proper challenge that would at least cast reasonable doubt on the fact taken notice of. See MPEP 2144.03 where In re Boon is mentioned.

### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Point of contact**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Raquel Alvarez

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Primary Examiner  
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R.A.  
5/31/2007